GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

EFS&T Department – Appeal filed by Andhra Paper Mills Limited., renamed as International Paper APPM Limited, Orders of *Hon'ble HC of AP in W.P.No:36704 of 2015Dt 16-11-2015* – Hearing held on 4-7-2017 at 11:00 A.M, in the Chambers of the Principal Secretary to Government, EFS&T Department-Orders issued.

ENVIRONMENT, FORESTS, SCIENCE &TECHNOLOGY (Section-.II) DEPARTMENT

G.O.RT.No. 146 **Dated: 16-08-2017**

Read the following:-

1. Orders of the Hon'ble Supreme Court of India, Dated.17-3-2015 in Civil Appeal No. 3040 of 2015 @ SLP (C) No. 25185 of 2012 received from Asst. Registrar D. No. 3162/2012/SECXIIA, Dated. 20-3-2015
2. Govt. Memo No. 6359/Section.II/2014, Dated: 20.05.2015.
3. From PCCF, A.P, Lr Rc**.** No. 56057/1990/Prod.4, Dated: 19.05.2015
4. From PCCF, A.P, Lr Rc**.** No. 56057/1990/Prod.4, Dated: 25.05.2015
5. State Govt. Letter No.6359/Section.II/2014, Dated: 3-6-2015.
6. Representation of the Andhra Paper Mills Limited., renamed as International Paper APPM Limited Dated. 1-6-2015.
7. State Govt. Letter No.6359/Section.II/2014, Dated: 18-6-2015.
8. Orders of Hon'ble HC of AP in W.P.No:36704 of 2015, Dt 16-11-2015
9. From PCCF, A.P, Lr Rc**.** No. 56057/1990/Prod.4, dated: 04.01.2016
10. Govt. Lr.No. 6359/Section-II/2014, Dated: 26-5-2016 & 20-6-2017

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ORDER:

The Andhra Paper Mills Limited., renamed as International Paper APPM Limited has represented to consider their case basing on the orders of the Hon'ble Supreme Court of India, Dated. 17-3-2015 in Civil Appeal No. 3040 of 2015 @ SLP (C) No. 25185 of 2012. The Government have conducted hearing on 15-6-2015 at 3.30 P.M for the waiver of the minimum royalty of Rs.2,35,35,232/- (Rupees Two Cores Thirty Five Lakhs Thirty Five Thousand Two Hundred and Thirty Two Only) raised by the Divisional Forest Officer, Bamboo Weightment Division, Rajahmundry for the lease year 1988-89, and after careful examination of the representation reiterated its decision to collect the minimum royalty amount of Rs.2,35,35,232/- (Rupees Two Cores Thirty Five Lakhs Thirty Five Thousand Two Hundred and Thirty Two Only) from i.e., A.P. Paper Mills Limited, Rajahmundry due for the working season 1988-89 and directed to arrange to pay the minimum royalty of Rs.2,35,35,232/- (Rupees Two Cores Thirty Five Lakhs Thirty Five Thousand Two Hundred and Thirty Two Only) which were due to Government for the lease year 1988-89 immediately without any further delay.

2. Aggrieved by the above orders, the International Paper APPM Limited, have filed a WP No, 36704 of 201, before the Hon'ble High Court of Andhra Pradesh and the Hon'ble Court in its orders Dated.16-11-2015 have directed the Government to consider the issue afresh in terms of the order of the Supreme Court and set aside the orders of the State Government issued in the reference 7th cited.

3. Accordingly, a fresh hearing was conducted by the Principal Secretary to Government, E.F.S&T Department, A.P., Hyderabad on 4-7-2017 at 11:00 A.M at Andhra Pradesh Secretariat, Velagapudi, Amaravati along with other concerned Officials and the representatives of the petitioners.

4. During the hearing, the petitioner contended that the State of Andhra Pradesh have published Act No. 29 of 1989 named "The Andhra Pradesh (Fixation of selling Prices) Act 1989 on 18th November 1989. One of the purposes of the Act is to terminate all the existing agreements/arrangement entered into by the Government for the supply of Bamboo and other forest produce and rationalize the periods of supply of forest produce and the selling price thereof.

5. It was informed that as per Section 3 (2) of Act 29 of 1989 all the existing agreements for term exceeding ten years and in force on the appointed date shall cease to be in force on the expiry of the period of ten years with effect from the date when such lease or agreement came into force. It has been represented that the Agreement for the Lease of Bamboo areas to M/s. Andhra Pradesh Paper Mills dated 20/07/1997 for the period 01.10.1975 to 30.09.1995 stood terminated on 30.09.1985. On the basis of the above, the petitioner argued that their agreement was not existing after 30.09.1985 and they are not bound by the agreement conditions.

6. As observed from the above it is evident that, the A.P. Paper Mills Ltd., has extracted 36,243.510 MTs of Bamboo from the areas allocated for the lease year 1988-89. But in accordance with the terms of the lease agreement and in particular, clause IV and VII (3), the lessee was required to pay annual minimum royalty for 85% of 1,00,000 MTs of Bamboo irrespective of fact whether lessee would have worked the coupe or not.

7. Hence, a demand notice was issued to the A.P. Paper Mills Ltd. on 03.08.1991, to pay an amount Rs.2,35,35,,732/- @ Rs.482.72 per MT of being the value of the short fall. Further it was emphasized that the agreement was valid up to 18-11-1989 i.e., the date of the notification of the Andhra Pradesh Forest Produce, (Fixation of selling price) Act, 1989. The provisions of the act cannot be made retrospectively effective from 30-09-1985 and can be implemented with the prospective effect only. From the plain reading of Section 3 of Andhra Pradesh Forest Produce, (Fixation of selling price) Act, 1989, it is clear that if any lease or agreement for a term exceeding 10 years and in force on the appointed date, shall cease to be in force on the expiry of the period of 10 years with effect from the date when such lease or agreement came into force. In the present case the agreement was entered on 20-07-1977 for a period of 20 years w.e.f. 01-10-1975 ending on 30-09-1995. Since the notified date of the Andhra Pradesh Forest Produce, (Fixation of selling price) Act, 1989 was 18-11-1989, the agreement could be presumed to have ended on 18-11-1989 and not on 30-09-1985 as contended by the AP Paper Mills authorities. Till the date of deemed termination of the agreement i.e., 18-11-1989 the agreement conditions remained sacrosanct. The provisions of the Andhra Pradesh Forest Produce, (Fixation of selling price) Act 1989 cannot be made effective with effect from 30-09-1985 whereas the Andhra Pradesh Forest Produce, (Fixation of selling price) Act 1989 was notified on 18-11-1989, as contented by the A.P. Paper Mills Ltd. The contention of the A.P. Paper Mills Authorities has no validity.

8. From the above provisions of the Law and with reference to the conditions of the agreement, it is clear that the agreement remained valid up to 18-11-1989 and the lessee (i.e. A.P. Paper Mills Ltd) is bound by the conditions of the agreement and the contention of the Lessee is not maintainable and liable for rejection and therefore hereby rejected. As per the long lease agreement for Bamboo, the lessee is directed to pay the pending minimum royalty of Rs.2.35 Crores for the year 1988-1989 along with the interest of 15% per annum w.e.f. the date of demand notice issued.

9. The Principal Chief Conservator of Forests, & Head of Forest Force, Andhra Pradesh is directed to take further necessary action to get the pending minimum royalty together with the interest amount from the firm

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)
G.ANANTHA RAMU
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Principal Chief Conservator of Forests, & Head of Forest Force,
Andhra Pradesh, Guntur .
Copy to
The Andhra Paper Mills Limited.,
Renamed as International Paper APPM Limited,
Krishe Sapphire Building, 8th floor, 1-89/3/B/40 to 42/KS/801,
Hitech City Main Road, Madhapur, Hyderabad -500081

// FORWARDED :: BY ORDER //

SECTION OFFICER